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7 HOT JEWELRY AUCTIONS.COM d/b/a JEWELRY
OVERSTOCK AUCTIONS and PARAMOUNT
8 AUCTIONS

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 MICHELE MAZUR, individually and for all
others similarly situated,

13 Plaintiff,

14 vs.

15 EBAY, INC., HOT JEWELRY
16 AUCTIONS.COM d/b/a JEWELRY
OVERSTOCK AUCTIONS, HOT JEWELRY
17 AUCTIONS.COM d/b/a PARAMOUNT
AUCTIONS, and DOES 1-100, inclusive,

18 Defendants.
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Case No. C 07 3967 MHP

DECLARATION OF GEORGE MOLAYEM IN
SUPPORT OF DEFENDANT HOT AUCTION
JEWELRY.COM'S REPLY IN SUPPORT OF
ITS MOTION TO STAY PENDING
ARBITRATION AND ITS OPPOSITION TO
PLAINTIFF'S MOTION TO STRIKE

Date: January 14, 2008
Time: 2:00 p.m.
Ctrm: 15
Judge: Hon. Marilyn Hall Patel

1 I, George Molayem, declare as follows:

2 1. I am the owner of Hill Street Jewelers USA, Inc. I have personal knowledge of the
3 facts set forth in this Declaration and, if called as a witness, could and would testify competently
4 to such facts under oath.

5 2. HotJewelryAuction.com is a website owned by Hill Street Jewelers USA, Inc.
6 (referred to herein as "HJA"). HJA operates on eBay under the eBay User Ids Jewelry Overstock
7 Auctions ("JOA") and Paramount Auctions ("PA").

8 3. When an eBay user navigates online to eBay's website and wants to register to bid
9 in one of HJA's auctions, the eBay user is automatically presented with a copy HJA's Terms and
10 Conditions to read and review. The eBay user is then able read HJA's Terms and Conditions
11 online by scrolling down through the text of the terms. HJA's Terms and Conditions are also
12 available, before and after registering for an auction, on the Catalog page for HJA's auctions held
13 eBay's website.

14 4. Plaintiff purchased items from HJA through an auction held by HJA on eBay using
15 the eBay User Id JOA. Submitted herewith, marked Exhibit A, and made a part hereof is a true
16 and correct copy of HJA's Terms and Conditions for a JOA auction. All HJA auctions are subject
17 to the same Terms and Conditions. All HJA auctions contain identical Dispute Resolution
18 provisions.

19 5. To bid in a JOA auction, Plaintiff had to click on a box stating "I have read... the
20 auction house's terms and conditions of sale above and accept them." If an eBay user does not
21 click on this box, the user is not allowed to participate in the auction.

22 6. HJA does not have historical records or screenshots of its Terms and Conditions as
23 they appeared to Plaintiff at the time of her purchase in February 2007, but HJA uses the same
24 Terms and Conditions in all its auctions, including auctions held in February 2007 when Plaintiff
25 made her purchases.

26 7. Pursuant to eBay policies, HJA must upload its Terms and Conditions onto the
27 eBay website when each auction catalog is created. At the time the Terms and Conditions are
28 uploaded onto the eBay website they are formatted with section breaks. The functionality of the

1 eBay website is limited, however, and the section breaks are automatically eliminated by eBay's
2 system.

3 8. HJA uploads a full and complete copy of its Terms and Conditions onto the eBay
4 website when each auction catalog is created. Prior to receiving Plaintiff's Motion to Strike and
5 Plaintiff's Opposition to HJA's Motion to Stay Pending Arbitration, HJA was unaware that a
6 technical error may have occurred rendering only a portion of HJA's Terms and Conditions visible
7 to an eBay user. In February 2007, when Plaintiff purchased her goods, HJA did not receive a
8 single complaint that its Terms and Conditions failed to load properly or were not completely
9 visible to the user. It is my understanding that if the Terms and Conditions did fail to load
10 properly on November 16, 2007, this error was due to a technical failure on the part of eBay's
11 servers.

12
13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.

15 Executed on December 19, 2007 at Los Angeles, California.

16 /s/ George Molayem

17 George Molayem

18
19 Attestation Regarding Signature: This document is being filed electronically under my
20 User ID and Password. Pursuant to General Order 45, Section X.B, I hereby attest that
21 concurrence in this filing of this document has been obtained from the other signatory to this
22 document.

23 I declare under penalty of perjury under the laws of the United States that the foregoing is
24 true and correct. Executed December 19, 2007 in San Francisco, California.

25 /s/ Stephen S. Walters

26 Stephen S. Walters